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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

UNITED STATES OF AMERICA,	)	Magistrate Docket No. 08 MJ 0877
Plaintiff,	)	
v.	)	**COMPLAINT FOR VIOLATION OF:**
Rosario Guadalupe VALENZUELA-Apodaca,	)	Title 8, U.S.C., Section 1326 Deported Alien Found in the United States
Defendant	)	

The undersigned complainant, being duly sworn, states:

On or about **March 18, 2008** within the Southern District of California, defendant, **Rosario Guadalupe VALENZUELA-Apodaca,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 20th DAY OF MARCH 2008

Leo S. Papas
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Rosario Guadalupe VALENZUELA-Apodaca

PROBABLE CAUSE STATEMENT

On March 18, 2008, Supervisory Border Patrol Agent W. A. Sommers was performing assigned Border Patrol duties in the Campo, California Border Patrol Station's area of responsibility. At approximately 10:00 p.m., Agent Sommers found footprints heading north from the U.S./Mexico International Boundary fence at an area commonly referred to as Smith Canyon. Agent Sommers encountered six individuals attempting to conceal themselves in the thick brush. This area is approximately ten miles east of the Tecate, California Port of Entry and three miles north of the U.S./Mexico International Boundary. Agent Sommers identified himself as United States Border Patrol Agent and questioned each subject as to their citizenship. Each subject, including one later identified as **VALENZUELA-Apodaca, Rosario Guadalupe,** admitted tobeing citizens and nationals of Mexico without any immigration document to be in the United States legally. Agent Sommers placed VALENZUELA and the other five individuals under arrest and made arrangements to have them transported to the Campo Station for processing.

Routine record checks of the defendant revealed an immigration history. The defendant's record was determined by a comparison of his immigration record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on **February 23, 2008 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.